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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,493	12/20/2001	Gary A. Pozamsky	496.014US1	9288

7590 04/14/2004

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EXAMINER

SMITH, DUANE

ART UNIT	PAPER NUMBER
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1724

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DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Office Action Summary

Application No.

10/026,493

Applicant(s)

POZARNISKY ET AL.

Examiner

Duane S. Smith

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 and 12-14 is/are allowed.
- 6) ☒ Claim(s) 10, 11 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6-27-03</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

At page 2 lines 2-3; page 2 line 12, page 2 lines 20-21, page 3 line 1, page 3 line 5, page 3 line 9, page 3 line 11, page 11 line 3, page 11 line 10, page 12 lines 17-18, page 12 line 27, page 13 lines 1-2, page 13 lines 24-27, page 17 lines 4-5, page 18 lines 27-28, page 19 line 6, page 19 line 26, page 20 line 11, and page 26 lines 25-27.

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code at page 16 line 25. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

3. The proposed drawing correction was received on 3-18-04. These drawings are approved. Formal correction of the noted defect may be deferred until after the examiner has allowed the case.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

"204", "202", "206", "200", "226", "224", "228", "220" as in Figs. 2A and 2B.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the

Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. In response to applicant's attempt to cancel the figures, expunging of original disclosure must be accompanied by a petition, see MPEP 724.05 and 724.06. thus the amendment has not been entered with regard to cancellation of figures 2A and 2B.

6. Claims 10,11,15,16,17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10,11,15,16 depend upon themselves.

7. Claims 10,11,15,16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

8. Claims 1-9,12-14 are allowed over the prior art of record.

9. The following is an examiner's statement of reasons for allowance: None of the prior art of record teach nor suggest the claimed features of a process of collecting pigment nanoparticles by moving pigment nanoparticles in a gaseous carrying environment through a dry mechanical pumping system and contacting the pigment nanoparticles with an inert liquid collecting medium within the dry mechanical pumping system or after the dry mechanical pumping system in combination with the other steps of the independent instant claim 1 nor an apparatus for practicing the method of instant claim 12 wherein a mechanical pump for moving the nonreactive gas with pigment material and the fluid to collect pigment particles with the other features of the independent claim. The closest prior art of record is to Hendrickson et al(US Patent No.

Art Unit: 1724

5,030,669) which discloses(Figs. 1-2, col. 10 line 62-col. 11 line 40, col. 11 line 41-col. 12-line 2) a similar method including the steps of forming a vapor from a solid pigment, providing an inert gaseous carrying medium to the vapor, solidifying some of the vapor to form pigment particles, moving the pigment particles to an inert contacting medium, contacting the pigment particles with an inert liquid collecting medium and moving the inert gaseous carrying medium to a mechanical vacuum pump after the contacting step. The instant invention differs from Hendrickson et al in that the dry mechanical pump moves the gaseous medium with entrained pigment particles to the inert liquid contacting medium before contacting and not after contacting as in Hendrickson et al. Thus, the instant invention is both novel and unobvious over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

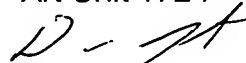
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duane S. Smith whose telephone number is 571-272-1166. The examiner can normally be reached on 8:30-6:00 M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Duane S. Smith
Primary Examiner
Art Unit 1724


4-9-04

Dss
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